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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

PUBLIC COPY



JAN 21 2005

File:

Office: ISLAMABAD, PAKISTAN

Date:

IN RE: Petitioner:
 Beneficiary:

PETITION: Petition to Classify Orphan as an Immediate Relative Pursuant to Section 101(b)(1)(F) of the Immigration and Nationality Act, 8 U.S.C. § 1101(b)(1)(F)

IN BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Mari Johnson

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The Officer In Charge (OIC) of the Islamabad, Pakistan, Citizenship and Immigration Services (CIS) district office denied the Petition to Classify Orphan as an Immediate Relative. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner filed the Petition to Classify Orphan as an Immediate Relative (Form I-600) with the OIC on October 14, 2003. The petitioner is a 39-year-old married citizen of the United States. The beneficiary was nine months old at the time of filing and was born in Islamabad, Pakistan on February 24, 2003. The petitioner indicated on the petition that the beneficiary had been adopted abroad and had been seen by the petitioner and her spouse prior to or during the adoption proceedings.

In her decision, the OIC determined that the birth certificate submitted with the petition was fraudulent. Accordingly, the OIC denied the petition.

The petitioner submits a timely appeal with additional evidence.

Section 101(b)(1)(F) of the Act, 8 U.S.C. § 1101(b)(1)(F), defines orphan in pertinent part as:

a child, under the age of sixteen at the time a petition is filed in his behalf to accord a classification as an immediate relative under section 201(b), who is an orphan because of the death or disappearance of, abandonment or desertion by, or separation or loss from, both parents, or for whom the sole or surviving parent is incapable of providing the proper care and has in writing irrevocably released the child for emigration and adoption; who has been adopted by a United States citizen and spouse jointly . . . who personally saw and observed the child prior to or during the adoption proceedings . . .

The record contains a copy of the beneficiary's birth certificate or "Birth Intimation," purportedly issued from the Federal Government Services Hospital, Islamabad. The birth certificate lists the name of the beneficiary and his parents, and also lists the date of the beneficiary's birth as February 24, 2003. The birth certificate does not contain any stamp in the area of the certificate where a stamp is required and contains no serial number documenting its issuance in any sequence.

In a letter submitted by the petitioner dated April 14, 2004, the petitioner claims that, "at reception [at the Federal Government Services Hospital] a nurse wrote [the] name of birth mother & address of my sister in a register and also took a copy of identity card of my sister." After the beneficiary was born, the petitioner claims that, "in the register 'baby boy' was written since no name was decided." The petitioner further claims no birth certificate was issued at that time and they were only given a discharge sheet.

The petitioner then claims that her brother-in-law obtained the beneficiary's birth certificate some time in March 2003. At that time, the petitioner states, "a lady doctor had signed and stamped the birth intimation form" and "[t]here was also a little note written on a copy of discharge sheet saying 'birth certificate issued.'" Finally, the petitioner claims that her brother-in-law "didn't see them writing any information on a register or keeping a record of the whole process anywhere."

The record also contains a letter dated November 25, 2003, from the Department of Homeland Security's Islamabad office's Country Attaché, [REDACTED] the Medical Superintendent of the Federal Government Hospital [REDACTED]. In his letter, [REDACTED] requests verification of the birth certificate contained in the record of proceeding. [REDACTED] indicates that he initiated the investigation because the birth certificate does not include a serial number.

The Report of Investigation contained in the record indicates that [REDACTED] checked the hospital records for the beneficiary's birth and "found no evidence of either the birth taking place at the hospital [or] a birth certificate

issued from the hospital." The Report of Investigation further states, "The Medical Superintendent [Dr. Chaudry] told this writer that the birth certificate submitted is a counterfeit document."

Based upon the results of the investigation, the OIC denied the petition on July 19, 2004, stating that the birth certificate submitted in support of the petition was found to be a counterfeit document.

On appeal, the petitioner submits a letter purported to be from Medical Superintendent of the Federal Government Hospital, Dr. Fazal Ur Rehman. In his letter [redacted] states:

With reference to your application dated nil on the subject mentioned above and to say that [the beneficiary] was born in MCH Centre Aabpara Dispensary Federal Govt. Services Hospital, Islamabad on 24.2.2003. It is also informed that the said certificate was issued by [redacted] of this hospital.

We are not persuaded by [redacted] letter. First, there is no explanation as to why the petitioner received this letter from [redacted] when [redacted] is known by CIS as the Medical Superintendent of the hospital. Second, [redacted] states only that "it is also informed" that the certificate was issued by Dr. [redacted]. According to [redacted] statements to the investigator, the hospital has records indicating both births and birth certificate issuance. There is no indication that [redacted] verified hospital records to corroborate the beneficiary's birth or any evidence of how he can state that [redacted] issued the birth certificate when [redacted] previously indicated there were no such records related to the beneficiary.

Moreover, though the petitioner submits a duplicate copy of the beneficiary's birth certificate on appeal, the birth certificate still contains no serial number documenting its issuance. Though the duplicate certificate does contain a stamp from a notary public, as well as another unidentified stamp, we do not find such stamps to be evidence that the certificate was properly issued or that the hospital records contains such information about this particular birth certificate.

We do not find any of the evidence contained in the record, including the additional documentation submitted on appeal, establishes that records exist at the Federal Government Services Hospital in Islamabad documenting the beneficiary's birth. Doubt cast on any aspect of the petitioner's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

Beyond the decision of the district director, we find the record does not establish the petitioner and her spouse have adopted the beneficiary or that the petitioner's spouse has seen the beneficiary. Contrary to the indication made on the petitioner's Form I-600, the record contains evidence only that the petitioner has been granted guardianship of the beneficiary. There are no documents to establish that the petitioner's spouse has personally seen and observed the beneficiary. Instead, the record contains a "Power of Attorney" signed by the petitioner's spouse in which he grants the petitioner the authority to "locate and adopt an orphan child in Pakistan" on his behalf.

Further, the home study report indicates that the petitioner and her spouse have a tenant, [redacted] residing in their home. The record does not demonstrate that [redacted] was checked in the appropriate registries pursuant to 8 C.F.R. § 204.3(e)(2)(iii)(A)(1).

For these additional reasons, the petition may not be approved.

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As always, the burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361.

ORDER: The appeal is dismissed.